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PRE-APPEAL BRIEF REQUEST FOR REVIEW

for

Attorney Docket Number: FSP0293
Client Reference Number: 267654US
Title: providing advertising after a video program has been paused
Application Number: 10/693,280
Filing Date: Thursday, October 23, 2003

Review is requested of the final rejection in the above-identified application. No amendments are being filed with this request.

This Request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

I am the attorney or agent of record.

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Date: 6/29/2008

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ISSUES/ARGUMENTS FOR WHICH THIS REVIEW IS BEING REQUESTED

Claim Rejections

In the most recent office action, Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0226142 by Rand.

In response to the Applicant's arguments, the Examiner states that Rand discloses combining content with a still image when pausing the video program, citing paragraphs [0010-0011] and [0028-0032]. The Examiner asserts that these sections demonstrate that Rand's invention relates to the selective insertion of media items (e.g., advertising, passive item) into a media stream. The Examiner asserts that these paragraphs also discuss how Rand's invention is to insert media items (e.g., by halting the delivery of a content-see [0029-0030]). The rejection of Claims 1-27 under 35 U.S.C. 102§ (e) as being anticipated by Rand is thus maintained.

Each of independent claims 1, 12, 23 and 27 recites in some fashion the following features:

providing a still image from the video program when the video program has been paused; combining an advertisement image with the still image thereby forming the combined image; and providing the combined image.

Respectfully, the Examiners response does not address the Applicant's main point, which is that Rand fails to disclose significant features of the present claims. The Applicant will now, in more detail, traverse exactly what is disclosed by Rand in the cited paragraphs.

Paragraph 10 recites:

[0010] The present invention is also directed to the selective insertion of media items into a media data stream provided to an individual viewer or to designated groups of viewers. The media stream can be a video stream, an audio stream, or a combination

thereof. The inserted item can also be an interactive application of possibly indeterminate length, a link to a website, a computer generated animation, or a passive item with a hot-button by which a user can request further information.

Notice that Rand is very specifically describing insertion of items into a media stream. No where in paragraph 10 does Rand describe a still image or combining an advertisement with a still image to form a combined image.

Paragraph 11 recites, inter alia:

[0011] ... The invention enables a service provider to selectively insert—advertising, commercial, or other content into a media stream on a subscriber by subscriber basis, ...

Notice that Rand is again very specifically describing insertion of items into a media stream. No where in paragraph 11 does Rand describe a still image or combining an advertisement with a still image to form a combined image.

Paragraph 28 recites, inter alia:

[0028] ... Depending on preferences entered by the subscriber, the provider can insert commercial material into this customized stream, as previously described.

Here Rand is merely describing the well-known process of “ad splicing”, in which a portion of a stream reserved for advertising content is overwritten with add content at delivery time. Notice that again, there is no description of combining an advertisement with a still image to form a combined image.

Paragraph 29 recites, inter alia:

[0029] A subscriber or provider can also specify a customized stream for future delivery. For example, a provider’s server can create an anthology of the best sequences of a particular television series with a new soundtrack. This anthology can be created either by the provider on its own initiative, or in response to a subscriber request. Rather than

duplicating those parts of the anthology that are copied, the system of the invention will store pointers to the inserted segments in a permanent storage device, along with the new sound track. These pointers will be resolved at run-time, after a subscriber has requested delivery of the anthology. The subscriber can also specify that the customized data stream be delivered to a subscriber other than the requesting subscriber. The customization of a data stream can also be performed dynamically. For example, a movie with multiple endings can prompt the subscriber to make a selection during the delivery of the movie. The subscriber's selection will determine which segment the server will subsequently deliver to the subscriber.

Here Rand is merely describing the well-known process of "stream customization", in which the exact content of a media stream is resolved at delivery time. Notice that again, there is no description of combining an advertisement with a still image to form a combined image.

Paragraph 30 recites, inter alia:

[0030] ..An STB 110 queries manager 120 for content F1131, after which manager 120 instructs video server 130 to stream F1131 to SIB 110. Manager 120 then checks meta-data 135 to find an insert point in F1131. Meta-data 135 can be, for example, a library or database of suitable insertion locations for each item contained on server 130. Once the insertion point is found, manager 120 instructs video server 130 to halt delivery of content F1131 and send content F2132 to STB 110. After content F2132 has been sent, manager 120 instructs server 130 to resume delivery of content F1131.

Here Rand is merely describing the process of inserting content into a data stream, by halting the stream, sending the content to insert, and then resuming the stream. Notice that there is no description of providing a still image from the video program when the video program has been paused. Nor, of course, is there description of combining an advertisement with a still image to form a combined image.

Paragraphs 31-32 below merely recite that the inserted content may be an alternate ending to a movie, or content specifically requested by a STB:

[0031] Alternatively, content F1131 can be a movie with a different ending F2132. At some time during the delivery of F1131 to STB 110, the subscriber will be prompted to make a choice. This choice will be transmitted to manager 120, which will then instruct server 130 whether to continue the delivery of content F1131 or start delivery of content F2132 instead.

[0032] In a third alternative, STB 110 may request that manager 120 send content F1131 followed by content F2132. Manager 120 will then instruct server 130 to send the requested content to STB 110.

To summarize, Rand merely teaches inserting material into digital streams. The inserted material is customized to the intended recipient(s).

Rand doesn't address or imply combining content with a still image when pausing the video program. There is no description anywhere in Rand of providing a still image from the video program when the video program has been paused, nor is there description of combining an advertisement with a still image to form a combined image.